

**REMARKS**

Claims 1-29 were pending in this application. Claims 1-12 and 16-29 were rejected. Claims 13-15 were objected to by the Examiner. Claims 1, 9, 14-17, 28 and 29 are amended. Claims 3-5, 10, 11, 13, 25 and 27 are canceled without prejudice or disclaimer of subject matter. Applicants respectfully respond to the Office Action.

**Claim Rejections under 35 U.S.C. § 101**

Claim 29 was rejected under 35 U.S.C. § 101 because the “a memory device” should read “computer readable memory.” While not acquiescing to the merits of the rejection, Applicants have amended claim 29 according to the Examiner’s helpful suggestion. Reconsideration and withdrawal of the rejection of claim 29 under 35 U.S.C. § 101 is requested.

**Claim Objections**

Claims 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants thank the Examiner for the indication of allowable subject matter. The allowable subject matter of claim 13, as discussed in more detail below, has been incorporated, as appropriate, into independent claims 1, 9, 28 and 29.

**Claim Rejections under 35 U.S.C. § 112, First Paragraph**

Claims 12, 16, 25 and 27 were rejected under 35 U.S.C. § 112, first paragraph because the best mode contemplated by the inventor has not been disclosed. Applicants respectfully disagree and have amended claims 12 and 16 to overcome this rejection. The rejection with respect to claims 25 and 27 is moot, as these claims were canceled without prejudice or disclaimer of subject matter.

**Claims Rejections under 35 U.S.C. § 102**

Claims 1-5 and 7-8 were rejected as being anticipated by WO patent publication number 02/067619A2 (hereinafter “Prasad”). This rejection is respectfully traversed.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” M.P.E.P. § 2131 (*quoting Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Id.* (*quoting Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1051, 1053 (Fed. Cir. 1987)). In addition, “the reference must be enabling and describe the applicant’s invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention.” *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that independent claim 1, as amended, is not anticipated by Prasad for the reasons and explanations set forth below.

With respect to claim 1, Applicants have amended claim 1 to require “means for determining a threshold based on a time slot utilization by flows and priority violations in real time for existing flows; means for admitting a new flow only if the total time slot utilization is below the threshold; and determining a new AF flow threshold for admitting a new AF flow based on the sum of an actual time fraction of each AF flow, scaled by a ratio of a required minimum rate and a measured throughput of the new AF flow.” Applicants respectfully submit that Prasad does not teach at least one of the features of claim 1, as amended. For example, Prasad does not teach or fairly suggest determining a new AF flow threshold for admitting a new AF flow based on the sum of an actual time fraction of each AF flow, scaled by a ratio of the required minimum rate and a measured throughput of the new AF flow. For this reason, Applicants respectfully submit that claim 1 is not anticipated by Prasad. Therefore, Applicants respectfully request that the rejection of amended claim 1 be withdrawn.

Claims 2, 7 and 8 are allowable as depending directly or indirectly from an allowable base claim.

### **Claim Rejections under 35 U.S.C. § 103**

Claims 6, 9-10, 18-19, 21-22, 26 and 28-29 were rejected under 35 U.S.C. § 103 as being unpatentable over Prasad in view of U.S. Patent Publication No. 2002/0161914 (hereinafter “Belenki”). This rejection is respectfully traversed.

Regarding claim 6, claim 1 is allowable for the reasons given above. Claim 6, being dependent upon and further limiting claims, should be allowable as depending directly or indirectly from an allowable base claim.

Claim 9 is amended to include the allowable subject matter of claim 13. Therefore, claim 9 should be allowable. Claims 18-19, 21-22 and 26 are allowable as depending directly or indirectly from an allowable base claim.

Regarding claims 28 and 29, the claims have been amended to include subject matter from allowable claim 13. More specifically, claims 28 and 29 have been amended to include “determining a new AF flow threshold for admitting a new AF flow based on the sum of an actual time fraction of each AF flow, scaled by a ratio of a required minimum rate and a measured throughput of the new AF flow.” As noted above, Prasad fails to teach or fairly suggest this feature of claims 28 and 29, as amended. Moreover, the combined teachings of Prasad and Belenki fail to teach or fairly suggest at least the subject matter added to claims 28 and 29, as Belenki, which is relied upon for a teaching of monitoring priority violations, does not provide any teaching that, when combined with Prasad, overcomes the deficiencies of Prasad alone as discussed above. For this reason, Applicants respectfully submit that claims 28 and 29 are not unpatentable over Prasad in view of Belenki. Therefore, Applicants respectfully request that the rejection of amended claims 28 and 29 be withdrawn.

Claims 11 and 17 were rejected under 35 U.S.C. § 103 as being unpatentable over Prasad in view of U.S. Patent Publication No. 2003/0199278A1 (hereinafter “Lee”). Claim 9 is amended to include all the limitations of the allowable subject matter of claim 13. Therefore, claim 9 should be allowable. Claim 11 has been canceled without prejudice or disclaimer of subject matter. Claim 17 is allowable as depending directly or indirectly from an allowable base claim. Therefore, Applicants respectfully request that the rejection of claims 11 and 17 be withdrawn.

Claims 20 and 24 were rejected under 35 U.S.C. § 103 as being unpatentable over Prasad in view of Belenki further in view of U.S. Patent Publication No. 2003/0128664A1 (hereinafter “Connor”). As discussed above, Claim 9 is amended to include all the limitations of the allowable subject matter of claim 13. Therefore, claim 9 should be allowable. Claims 20 and 24

are allowable as depending directly or indirectly from an allowable base claim. Therefore, Applicants respectfully request that the rejection of claims 20 and 24 be withdrawn.

Claim 23 was rejected under 35 U.S.C. § 103 as being unpatentable over Prasad in view of U.S. Patent No. 7,006,466B2 (hereinafter "Borst"). As discussed above, Claim 9 is amended to include all the limitations of the allowable subject matter of claim 13. Therefore, claim 9 should be allowable. Thus, claim 23 is allowable as depending directly or indirectly from an allowable base claim, i.e. claim 9. Therefore, Applicants respectfully request that the rejection of claim 23 be withdrawn.

**REQUEST FOR ALLOWANCE**

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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